

A True and Brief

11.

A C C O U N T
OF THE
P R O C E E D I N G S
BETWEEN

Mr. David Fitz-Gerald
AND

William Hetherington,

Before His M A J E S T Y in COUNCEL,

On *Friday* the 11th of *February* 168^o.

Where the Attorney-General was ordered to prosecute the said *William Hetherington*, and one *Bryan Mac Donagh*, (that goes under the name of *Bernard Denis*) a *Dominican* Frier that came out of *Ireland* in *October* last, who formerly belonged to a Convent at *Sligoe* in the Kingdom of *Ireland*:

AND ALSO

The ARTICLES of the said *Hetherington* against Mr. *Fitz-Gerald* :
with Mr. *Fitz-Gerald*'s ANSWER to each Article.

With Six high and transcendent ARTICLES preferred by the said
Mr. *Fitz-Gerald* against the said *Hetherington*, fully proved before
His Majesty in Council.



LONDON : Printed in the year MDCLXXXI.

111

A Time and Brief

ACCOUNT

OF THE

PROCEEDINGS

BETWEEN

Mr. David Fitz-Gerald

AND

William Fitz-Gerald

Before His Majesty's Council

On the 14th of January 1833

Where the Attorney-General was ordered to produce the bill of exchange, and one Peter and David, (that goes under the name of Edward Davis) a Dominican Friar, that came out of Ireland in the ship which belonged to a Captain at Dublin in the Kingdom of Ireland.

AND ALSO

The Articles of the said William Fitz-Gerald against Mr. Fitz-Gerald: with Mr. Fitz-Gerald's Answer to each Article.

With six high and honorable Articles presented by the said Mr. Fitz-Gerald against the said William Fitz-Gerald, fully proved before His Majesty's Council.

The ensuing Interrogatories were preferred by Mr. Fitz-Gerald against Hetherington, and upon Hetherington's own Confession, and full proof, as afterwards appeared before the King and Council, on Friday the 11th of February instant. Mr. Fitz-Gerald grounded his Charge against the said Hetherington, and one Bernard Dennis (called in Ireland, Bryan Mac Donagh) a Dominican Friar, who is of the County of Sligoe in Ireland, as he says: This is he who used sinister means to perswade one Hugh Duffey, and several others, to swear against the Queen; which was fully proved upon him, and an Order made to the Attorney-General to prosecute both the one and the other to the utmost of the Law, which will be speedily done: The Quæries are as followeth.

Interrogatories put to Mr. Hetherington, before His Majesty and Privy-Council, on Mr. David Fitz-Gerald's Petition.

1. **M**R. Hetherington, Have you any misdemeanour, or other crime to lay to Mr. Fitz-Gerald's charge?

2. Do you know of any Collections of Money that have been made in London for the Irish Witnesses? if so, who were the Collectors by name, and who were the Pay-masters by name? by whose direction or authority was those Monies demanded or received? what method was used in apportioning the same? where was their usual place of meeting?

3. Mr. Hetherington, How much did you receive of this Money? who appointed you to receive it? what have you done with it? how much of it did you keep to your own use? how much did you pay of it to others? name their names, and the particular sums you paid them? what were they to do for that Money? and who treated with them, or to what purpose? declare your knowledge at large to each particular.

The consequences of Mr. Hetherington's Answers I humbly submit to your Majesty, and crave leave to proceed to further Interrogatories grounded on my Petition. Granted.

4. Mr. Hetherington, You said I tamper'd with the King's Evidence, and endeavoured to suppress it; you complained of me to Justice Warcup; you said I endeavoured to stifle the Evidence of one Mr. Dennis against the Queen; I was summon'd to appear before a Committee of the House of Commons thereupon: Now declare, what Evidence was there against the Queen, Sir John Davis, or any other, that I endeavoured to stifle? name the Witnesses I tamper'd with, who have any thing to say against the Queen, or any other; I desire they may be called in.

Now I desire the Opinion of this Honourable Board, whether I was unjustly conven'd before the Committee of the House of Commons; whether I am guilty of stifling the King's Evidence, or deserve a Vindication: And I desire I may proceed further on the matter of my Petition.

I alledge in my Petition, that the practices of Mr. Hetherington and others are of dangerous consequence to the Government: and before I come to shew that, I humbly ask leave to ask Mr. Hetherington the ensuing Questions.

5. Mr. Hetherington, How came you first acquainted with Mr. Edm. Morphy now in Town, one of the King's Evidence, and where? and where was it in Prison? if so, in what Town? how came he committed, and for what? and how came you also committed, and for what? and how were you enlarged? were not you in for Debt? if so, how much was it? at

In Dondalk Gaol. After his denials, at last confessed that he brake Gaol in Dublin, and stole away.

whose Suit? did you pay it? did not you get your self removed to the *Kings-Bench* Prison, or the *Marshalsea* of the four Courts, so called in *Dublin*? do you know Mr. *Lovet* the Keeper thereof? how got you out of Prison? In plain terms, did not you break Prison, or steal away thence? what sums was he forced to pay by your escape then? and durst he touch you the last time you were in *Dublin*, you being (as you pretended) one of his Majesties Evidence? And if you are not, who Commissioned or appointed you, or stiled you the Manager of the *Irish Evidence*?

No answer to that.

6. Mr. *Hetherington*, How long were you and Mr. *Morphy* in *Dondalk* Gaol together? were you both under one Crime? if otherwise, declare the particular cause of your commitment? what time of the year were you both, or either of you committed? how long were you in restraint before you knew any thing of the Plot? how, when, where, and by whom were you made privy to it? did you reveal your knowledge of it to any of the Privy-Council in *Ireland*? if you did not, tell your reason why? was it because you broke Prison and ran away from *Dublin*? be punctual, how long were you a Prisoner in *Dondalk*, and *Dublin* before you came away?

7. Mr. *Hetherington*, Have you any Estate in *Ireland*? if you have, name the Lands, County, and place, and the yearly value: were you ever a Justice of the Peace in any County there? if so, in what County there? did you ever, as a Justice of the Peace, examine Mr. *Morphy* in *Ireland*, as a Discoverer of the Plot? did not you perswade the people in *London* to believe these things?

8. Mr. *Hetherington*, How came you and Mr. *Morphy* so great? did you declare, that Mr. *Morphy* endeavoured to suborn Witnesses to swear that Mr. *Smith* and *Baker* were Confederates with the Tories in *Ulster*? where was Mr. *Morphy* then, and some time before? of what life and conversation? did he then discover the Plot in *Ireland*? or did he say that he knew any thing of it?

Made no discovery.

No.

Very little, but borrowed, but forgot the mans name.

9. Mr. *Hetherington*, What Money did you bring with you into *England*, and how much? was it in Cash, or by Bill of Exchange? if by Bill, who drew it? and upon whom in *London*? name the parties.

Now Sir, you have an account of Mr. *Hetherington's* life and conversation, the principal manager of the *Irish Evidence*, as he stiles himself. I will now go on and prove, that instead of doing his Majesty service, or rightly managing the Evidence, he endeavoured to render his Majesty odious to his people in *London*, and to perswade them that the Popish Subjects of *Ireland*, were discharged from their Allegiance by the Pope. And that he shewed the Popes Bulls, or Briefs to that purpose, to his Majesty, and that his Majesty took no notice thereof; that he concluded therefore his Majesty was actually in the Plot, or a Favourer of it: And that the Earl of *Essex* called him Rogue and Rascal for producing those Bulls. All these things he endeavours to insinuate into the hearts and minds of the people here, to do the King harm, and to breed confusion and mischief.

Stood up to justify the Bull or Brief, but at last was utterly convinced.

10. Let Mr. *Hetherington* declare if he e're received any such Bulls or Briefs, where they are now, who gave them to him, and to whom did he deliver them?

But let the Reader observe, that when *Hetherington* found himself to be Impeached, he pop'd in the ensuing Charge against Mr. *Fitz-Gerald*, though he could neither justify nor prove any or either of the ten Articles, which defeated his malice.

Articles of Misdemeanour humbly proposed by *William Hetherington*, against *David Fitz-Gerald, Gent.* With *Mr. Fitz-Gerald's* Answer to each Article, read before his Majesty in Council.

THE said *Fitz-Gerald*, at the first coming over of the *Witnesses* out of *Ireland*, and to prove the *Hallish Plot*, did seem to be very glad of their coming to justify their Evidence, and in particular that of *Eustace Comyns*, saying that he was an honest man, and was wonderfully elated in Prison by the means of *Sir William Davis*, for discovering of the Plot, which he swore he could say more to them any of them all, and that he could charge the greatest Men, or Man in *Ireland* therewith, or in words to that effect. But after he saw *Comyns* Narrative printed, and found that several of his Friends were pretended, were charged therein, then he began to rail and revile upon him, and threaten to be the Death of him; and afterwards took occasion to abuse and revile the rest of the *Witnesses*.

1. The said *David Fitz-Gerald*, having to himself all advantages and benefit of Exceptions, in answer to the first Article saith, That he was then, and would be still heartily glad to see honest and credible men (such as neither the said *William Hetherington*, nor *Eustace Comyns* in the first Article named, are reputed to be) to come in and discover any Plot that should be against your Majesties Person or Government; but abhors Villany, Combination, and contrivance to disturb the peace and tranquility of your Kingdoms. And further saith, That it was impossible for him to commend the said *Eustace Comyns*, as in truth he did not, he having little or no acquaintance with him; only seeing him sometimes Threshing and Ditching for *Mr. Mann O Brian*, this Respondent's Neighbour in the County of *Limerick*, and knowing that he was a Fellow not above the quality of a daily Labourer, who commonly wrought for 4 d. per diem in that Country, and hearing by credible persons that he was esteemed a Rogue, and threatened to burn the said *Mann O Brian's* House, and stole out of *Limerick Gaol*, as *Mr. Hetherington* did out of the *Black-Dog Prison* in *Dublin*; and the said *Eustace Comyns* being of no other quality or reputation as aforesaid, (as the Lord Bishop of *Limerick*, *Sir William King* Governour of *Limerick*, and Lieutenant *Croker* and others can testify) it was unreasonable that this Respondent should think (as he never did) that the said *Eustace Comyns* could charge the greatest Men, or Man in *Ireland* with any Plot, any more then he thinks, it was otherwise then wicked in *Mr. Hetherington* to bring over honest men from their Habitations in *Carrick* and *Clonmell*, thinking to bribe them groundlessly to accuse some of your Majesties Loyal Subjects, thereby to affirm and countenance the Contrivances of the said *Hetherington* and others.

2. That amongst other matters that he pretended he could prove touching the Plot, he said he could prove the Day and Time that the Duke of York was to be proclaimed King in *Ireland*, and that he would tell the King of it; and that he did acquaint the Earl of Burlington, coming out from the Committee of the Lords, that he could and would hang those he had accused, and bring Great odes to prove the matters he had charged them with.

2. This Respondent absolutely denieth the charge of the second Article; only that he told the Earl of Burlington, that the Lord Brittas and Bishop Mullony

Mullony must stand to your Majesties mercy, or undergo the Rigour of the Law: He confesseth, that since his coming into *England*, he was very often solicited and entreated by divers persons, whom he shall name when your Majesty shall be pleased to command him, to accuse Her Majesty, his Royal Highness the Duke of York, the Duke of Ormond, the Lord Chancellor of Ireland, and Sir *John Davis* with the Plot, which the Respondent (having nothing to lay to their charge) always refused; and then they earnestly requested this Respondent, since he could not swallow Oaths, and gallop along with them, not to contradict others, or to hinder them to accuse Her Majesty, his Royal Highness, and the rest of the persons aforesaid.

3. That notwithstanding the said Fitz-Gerald hath since endeavoured by many ways and means, to bring this Informant and the said Witnesses into his Majesties disfavour, and to cast reproaches upon them, the better to invalidate their Evidence; alledging untruly, that they had received Three thousand pounds from the City of London, or some of the Citizens thereof, or some others, whom he would mention if he could.

3. To the third Article this Respondent saith, That he believes that neither the said *Hetherington* or *Comyns* ever were in your Majesties, or any good mans favour, and therefore to endeavour or take the least pains to bring them and their Witnesses into your Majesties disfavour, or to cast Reproaches upon them, is needless, the Character enstamped upon them already by Oral Testimony, and matter of Record, sufficiently evidencing their demerits: He confesseth he said that he heard, and doth verily believe that Three thousand pounds have been collected from some of the Citizens of *London*, and that part thereof was paid to Sir *William Waller*, and other part thereof to the said *Hetherington*, where, (in breach of his Trust) paid but little or nothing of it to the Witnesses.

4. That the said Fitz-Gerald hath sometimes by Threats, other times by Feasts, Treats, Monies, Promises, and other ways of perswasion, laboured to take off the said Witnesses from giving their Evidence on his Majesties behalf; particularly in the case of Sir *John Davis*; and when all that would not prevail upon them, told them that his Majesty was displeased with this Informant's proceedings, and would be so with them, if they followed his directions; and by these devices so affrighted them, that he got them to sign to a Petition to his Majesty, which he drew for the purpose, intimating that they were informed his Majesty did not look upon them as coming to do him Service, and that if it were so, they should readily desist appearing further, though their Intentions were really to serve his Majesty therein. That the said Fitz-Gerald, when he knew the said Witnesses were to be called into either Houses of Parliament, or some Committee relating to them, to give in their Evidence, hath endeavoured to hide them, or some of them, that they could not be found; and when they have been found, he hath laid violent hands on them, or some of them, and would not permit them to go, until they forced themselves away from him; and then he threatened them, and those that called them, and with an Oath said he would break *Shaftsburys* Knot; and the better to prevail with the Witnesses, acknowledged he had received for his service One hundred pounds of his Grace the Duke of Ormond, Five hundred pounds from the King, and a Commission to be a Captain; and that his Majesty had given him two blank Patents for Baronets, the one for his Father-in-Law, and the other to be at his own disposing; and also a Grant of the Commons of *Rakeale*, and all the Commons of *Knock-Greary*, in the County of *Limerick*.

4. To the fourth Article he saith, That he never in his life-time laboured or endeavoured by any ways or means to stifle or keep back any Evidence against Sir *John Davis*, or any other; though at the same time he firmly believes, that Sir *John Davis* is a loyal faithful Subject to your Majesty, and doth from his heart abominate any Villany or Contrivance against your Majesty, he having been as scrupulous to find out the truth upon the several Examinations of this Respondent, taken before him and several others in *Ireland*, as any person whatsoever. He confesses he said he would break *Hetherington's Knot*, but denies he ever mentioned the Earl of *Shaftsbury* to that purpose: He confesseth he received One hundred pounds of your Majesties money out of your Treasury in *Ireland*, by order of the Lord Lieutenant and Council there, and not a peny of the Duke of *Ormond's* own money, as is maliciously suggested; and he received also One hundred pounds sterling more out of your Majesties Treasury in *England*, by your Majesties order in Council, and no more, which is all the Respondent ever received to defray the extraordinary great charges expended by him in several Journeys in *Ireland*, and his Voyage from thence to this place, in prosecution of his Discovery, being far short of the real sums laid out by him purely on the account aforesaid, having spent seventeen months entirely in that Service, wholly neglecting his own private concerns. He confesseth, that he was desired by some of his Friends and Relations, to procure (if he could) two blank Patents for Barons in *Ireland*, from your Majesty; denies that ever he said he had a Grant of the Commons in the said Article mentioned, but confesseth that he intended to apply for the same, being parcel of his ancient Estate, and would have raised a considerable sum of Money for the procuring thereof, if it could be obtained; and as to all and every other matter and thing in the said fourth Article contained, this Respondent denieth the same.

5. That he the said *Fitz-Gerald* had not only vilified and threatened the said Comyns, but had also informed several of the Members of the House of Commons, that the said Comyns was a very Rogue, and that he could produce many Records against him, and that he was not fit to be credited; and also terrified and threatened to kill him the said Comyns, so that he was forc'd for some time to keep himself in obscurity. That the said *Fitz-Gerald* hath not only vilified and abused him this Informant, and the Evidence which he was concerned for, but also Mr. *Thomas Samson*, who came over upon his own accord to serve his Majesty in that matter, who by his Testimony therein hath given great satisfaction to both Houses of Parliament.

5. To the fifth Article the Respondent answering, confesseth and saith, That he did inform the House of Commons, that Comyns was esteemed a Fool and a Knave: whereupon, and by reason of the incoherency of the said Comyns Narrative, as the Respondent humbly conceives, the same was rejected; but denieth that ever he threatened to kill him, or do him any other bodily harm: He also confesseth, that being provoked, he did correct *Samson* in the said Article named, for some sawcy language he gave this Respondent, whereof the said *Samson* did complain to the House of Commons, who did in hearing of his Complaint, adjudge it to be idle and ridiculous: This Respondent denieth that the said *Samson* came over out of *Ireland* of his own accord to serve your Majesty, but was wrought upon to come over out of wicked ends, by persons not yet named, (whom this Respondent shall name, whensoever your Majesty shall be pleased to command him) to disturb and destroy some of your Majesties good Subjects in both Kingdoms.

6. That the said Fitz-Gerald being examined by a Committee of the House of Commons, against Sir John Fitz-Gerald, refused to give his Evidence (being his Relation) unless the Committee would promise to intercede to his Majesty for his the said Sir John's Pardon: And before a Committee of the Lords, in his Evidence he charged Col. John Fitz-Patrick, and Sir Edward Scot, to be Confederates in the Plot, but at the Lords Bar would not, though asked; and left their Names out in his Narrative published in print, of his own knowledge, in that matter his mind being since altered, upon what considerations may well be judged: He also said before the said Committee, that he feared the worse because they knew the King had a kindness for him.

6. To the sixth the said Respondent saith, That he did never mention to the Committee of the House of Commons for a Pardon for Sir John Fitz-Gerald, otherwise then as followeth: (*viz.*) That the Committee asking this Respondent what he knew concerning Sir John Fitz-Gerald, and the Respondent answering, That what he had to say against him, was mentioned in his Narrative then in his hand, which he adhered unto; a Member of the Committee thereupon demanded, whether the said Sir John would own his being in the Plot? To which the Respondent then replied, he did not conceive it would be proper for Sir John Fitz-Gerald (if he knew he was guilty) to accuse himself, before he was sure of his Majesties pardon; or words to that effect. He also saith, that he declared at the Bar of the Lords House, that by flying report he heard that Col. John Fitz-Patrick, and Sir Edward Scot were concerned in the Plot; but how far they were concerned therein, this Respondent did not, nor doth not charge them with of his own knowledge: He denieth to have altered his mind, or to deviate from Truth or Justice; and hopes that God will not leave him, after the example of Hetherington and others, to follow evil ways, and promote wicked designs, upon any temptation whatsoever: And therefore he doth not understand Hetherington's meaning, who saith that the Respondent's mind is since altered, upon what considerations may be well judged, the same being absolutely false, and scandalously insinuated. And the Respondent further answering, saith, That he being summoned to answer Hetherington's complaint, before a Committee of the House of Commons, the said Hetherington urged as a great crime in this Respondent, that he was a Favourite of your Majesties; to which this Respondent answered, that supposing he were, (as he never had the vanity to pretend unto any such thing) he hoped he should not fare the worse for that.

7. That the said Fitz-Gerald asked the Witnesses, or some of them, whether they retained the Romish Religion yet, or no; who replied, they did: for which the said Fitz-Gerald commended them for so doing, for that the Protestants would only make use of them for their own purpose and advantage, and afterwards would hang them.

7. To the seventh the Respondent saith, That he was, and is still of opinion, that the Testimony of such Witnesses as were all their life-time Papists, would bear more credit, by their not publishing their changing of their Religion, until they had first given in their Evidence; but after that done, it behoved such of them as were Priests, and whose Judgments were convinced, to declare their Conformity to the Church of England, lest they be questioned upon the Statutes.

8. That the said Fitz-Gerald also told the said Witnesses, or some of them, that
the

the King was satisfied that the late Lord Stafford was innocent, denying the Fact at his death, or words to that effect; and that his Majesty was resolved not to Try any more of the Lords in the Tower: And after the Parliament was prorogued, he told the said Witnesses, or some of them, that he would remove their Nests.

8. As to that part of the eighth Article, (*viz.*) That the Respondent also told the said Witnesses, or some of them, that the King was satisfied that the late Lord Stafford was innocent, denying the Fact at his death, or words to that effect; and that his Majesty was resolved not to Try any more of the Lords in the Tower: The Respondent saith, the same is utterly false, malicious and hellish, and humbly submits it, whether any man in his right wits, would utter such horrid things, which never entered into the imagination of the Respondent: So as he humbly hopes, your Majesty will look upon this as a design of the said Hetherington's merely to defame this Respondent, and render him as obnoxious to your Majesty, as the said Hetherington has made himself infamous to such as know his pernicious practices: And as to the residue of the said Article, this Respondent confesseth he would endeavour, if he could, to have the said Hetherington removed from the said Witnesses, to prevent his continuing of those attempts he had formerly used, of perswading the Witnesses falsely to accuse persons, against whom they declared they had no crime to object.

9. That he the said Fitz-Gerald had kept continual correspondency and familiarity with the four Witnesses which were brought over by a Messenger from Ireland; and a Person of Quality perceiving it, told him that he had not observed the Orders the Commons gave him, which was, that he should not come near any of the Evidence, nor converse with them: the said Fitz-Gerald reply'd, that he was commanded by the King to come there; and also gave the said Person of Quality very scurrilous and abusive language. The said Fitz-Gerald also abused the said four Witnesses, or some of them, and asked if they came to hang poor Plunket.

9. To the ninth the said Respondent answering, confesseth, that he had ordinary converse with the four men, that lately came from Ireland, namely Maurice Fitz-Gerald, Morlagh Downing, George Coddan, and Paul Gormally, the two first giving him an account of his Wife and Family, which he conceives to be no crime in him; knows not what Person of Quality the said Hetherington means; if it be Sir Henry Ingoldsby, as he can guess no other, this Respondent hath already given an account of what pass'd betwixt Sir Henry and this Respondent, though this Respondent cannot but admire what Sir Henry had to say to those persons, and to what purpose, and on what design, or by what authority did he come to them: But to what pass'd betwixt this Respondent and the said four persons, this Respondent referreth himself to them, who are yet in Town.

10. That the said Fitz-Gerald said he was abused; because he would not accuse the Duke of Ormond, and the Chancellor of Ireland, which he knew to be the best men as any in the three Kingdoms.

William Hetherington.

A true Copy,

John Nicholas

15. To

10. To the tenth this Respondent answering, confesseth that he said, and he still saith, and is ready to depose, whensoever your Majesty shall think fit, that several persons did labour to perswade this Respondent to accuse the Duke of Ormond, and the Lord Chancellor of Ireland, of the Plot, as also Her Majesty, his Royal Highness, and others, as he hath already in his Answer to the second Article declared; and he also confesseth, (which he conceives to be no misdemeanour in him) that he in his conscience believes that the Duke of Ormond, and the Lord Chancellor of Ireland, were never concerned in any Plot or Contrivance against your Majesties Person or Government, but are true and firm to your Royal Interest: And he further saith, that he believes that the persons who designed, or do still design to impeach or accuse them thereof, or of any such abominable practices, do abhor and detest your Royal Government, and the happy state and condition of your Kingdoms: And the Respondent also saith, that the reason why the said *Hetherington* has so much falsely abused this Respondent, was for that he the Respondent would not comply with the said *Hetherington* to accuse the aforesaid persons.

And this Respondent having in obedience to your Majesties Order in Council, bearing date the 4th day of February instant, answered the said Articles exhibited against him by the said *Hetherington* as aforesaid, doth with all humility submit himself, and his said Answer, to your Majesty and this Honourable Board, and doth humbly pray your Majesties severe Reprehension, or gracious Vindication, as his Case shall deserve.

And as in duty bound shall ever pray,

DAVID FITZ-GERALD.

Mr. David Fitz-Gerald's Arguments against *Hetherington's* Articles before his Majesty in Council.

THE said *David Fitz-Gerald* being convened the last Session of the last Parliament before a Committee of the House of Commons, upon the complaint of the said *Hetherington*, alledging that the said *David Fitz-Gerald* stifled Evidence against the Queen, and others, in relation to the Plot, was discharged by the said Committee, and received a just Vindication: Whereupon the said *David* petitioned the House of Lords to the same effect, with the following Petition; and before any progress could be made thereon, the Parliament was dissolved: so as he was forced to address himself to his Majesty and Council by Petition, the substance whereof is briefly thus.

That some collections of Money hath been made, and applied to the disposal of the said *Hetherington* and others, the said *Hetherington* pretending himself to be the Manager of the *Irish* Evidence; That the Petitioner hath great reason to fear, that the consequence thereof will be prejudicial to his Majesty and the Nation in general; That the said *Hetherington* had publicly defamed him, as a person that should endeavour to stifle some *Irish* Witnesses against the Queen, Sir *John Davis*, and others, and by sinister means to prevent their Testimony; That the Petitioner conceives, that this is a practice set on foot of purpose to prevent the true discovery of the Plot, and hath just cause

cause to suspect the same; and that the said *Hetherington* will attempt his life, as he did his reputation. And because the Petitioner can prove by several instances, that he hath always encouraged the Witnesses to discover the whole Truth, and to conceal nothing thereof; and because he hath just cause to fear the great disadvantage and dishonour that may ensue such practices to his Majesty; (if not speedily prevented) he made this Address to his Majesty in Council; that such foul and dangerous practices may be detected and defeated, and that the Petitioner himself (if guilty) may receive condign punishment, but if innocent, a just Vindication.

And so he prayed a speedy day for the hearing of the matter of his Petition and Summons, requiring Mr. *Hetherington*, and such as shall appear to be his Confederates, to Answer; and Summons for his own Witnesses to prove the Charge in his Petition.

Hereupon the said *Hetherington* appeared personally at the Council Board, where he was examined by the Lord Chancellor in full Council (his Majesty then present) upon the Interrogatories before specified, which the Petitioner delivered in writing under his hand. And by *Hetherington's* own Answers thereunto; (appearing by the Minutes taken by the Clerk of the Council) it is evident, that some Money hath been collected in London; that *Hetherington* received part of it; that there was no Evidence against the Queen, or any other, that the Petitioner filed; that *Hetherington* is a Fellow of ill life and conversation; that he was in *Dundalk* Gaol for holding correspondence with the Outlaws and Tories in Ireland; that he was there two years past in the *Marshalsea* in *Dublin*, and broke Prison there, and so came for England; and that he is not worth a Shilling, &c.

Now to anticipate Mr. *Fitz-Gerald's* proceedings against him on the said Petition, *Hetherington* exhibits Ten Articles of Misdemeanour against Mr. *Fitz-Gerald*, the substance whereof is briefly thus.

1. That Mr. *Fitz-Gerald* at the first coming of the Witnesses out of Ireland, cherished the Witnesses, commended *Eustace Comyns* one of them, and said he could accuse the greatest Men, or Man in Ireland: but afterwards threatened to kill him, and took occasion to abuse and revile him, because he accused some of Mr. *Fitz-Gerald's* Friends.

2. That Mr. *Fitz-Gerald* said he could prove the day and time when the Duke of *York* was to be proclaimed King in Ireland; and that he acquainted the Earl of *Burlington* he would hang those he accused, and bring Great ones to prove the matters he had charged them with.

3. That Mr. *Fitz-Gerald* laboured to bring Mr. *Hetherington* and the Witnesses into his

Answer. 1. That he would be glad to see honest men appear for the King; that *Hetherington* and *Comyns* were none; that he never did commend *Comyns*; that he was but a Thresher and a Labourer; and per diem with Mr. *O'Brian*, Mr. *Fitz-Gerald's* Neighbour in the County of *Limerick*; that it was unreasonable to think such a Fellow could accuse the greatest men, or man in Ireland.

2. He denies this charge; he told the Earl of *Burlington*, that those he accused must submit to his Majesty's mercy, or undergo the rigour of the Law; he said he was earnestly solicited, since he came to London, to accuse the Queen, the Duke, Ormond, Chancellor of Ireland, and Sir John Davis of the Exchequer.

3. He says it is needless to labour that, Witnesses and Records prove him

The said *Hetherington* has spread several Libels and Pamphlets of Mr. *Fitz-Gerald*, which he and the Printer are like to smart for.

Nota.

him and his Witnesses to be Villains; he confesseth, that he believeth such Collections have been made; that Sir Will. Waller received part of it, and Hetherington another part of it, but paid nothing of it to the Witnesses.

4. He denies to have stifled any Evidence against Sir John Davis; he confesseth he said he would break Hetherington's Knot, but denies he over-mentioned the Earl of Shaftsbury to that purpose; he confesseth to have received 100l. out of the Treasury in Ireland, by Order of Council there, and no more, and not a penny of the Duke of Ormond's money; 100l. more in England by Order of Council, out of the Treasury, and not a penny more; he confesseth he was desired to procure the blank Patents, and that he would lay out money for a grant of those Commissions, being part of his ancient Estate, if it might be obtained.

5. He confesseth that he did inform the House of Commons, that Comyns was a Knave and a Fool, and that by reason of the incoherence of his Narrative, he conceives it was rejected; he denieth to have threatened him; he confesseth, that being provoked, he did correct Samson for saucy language; he denies that Samson came out of Ireland to serve the King, but was wrangled upon to come over to disturb and destroy your Majesties good Subjects.

6. He denies the first part, prout answer more particularly; he only heard by flying report they were present at Consults in Dublin, and said no more of them at the Lords Bar.

7. He saith, he was and is still of opinion, that the Testimony of such Witnesses as were all their life time Papists, would bear more credit by not publishing the change of their Religion, but after that done, the Priests must conform, lest they may be questioned on the penal Statutes here in England.

8. He denies that presumption; but confesseth he did and will endeavour to remove him, he being a wicked Subverter, &c.

Majesties disfavour, and to cast reproaches upon them; and that 3000 l. was collected for them in London.

4. That he endeavoured to take off the Witnesses from giving their Evidence on his Majesties behalf, particularly in the case of Sir John Davis; that he told them, his Majesty was displeased with Hetherington's proceedings; that he procured them to Petition his Majesty, intimating they were informed his Majesty did not look upon them, as coming to do him Service; and that if it were so, they would desist appearing further. That he did use to hide the Witnesses, when they were called upon by either of the Houses of Parliament; that he laid violent hands on some of them; that he swore he would break Shaftsbury's Knot; that for this Service he had 100 l. from the Duke of Ormond, * 500 l. from the King, a Commission to be a Captain of Foot, and two blank Patents for Baronets.

5. That he informed several Members of the House of Commons, that Comyns was a very Rogue; that he could produce many Records against him; that he was not fit to be credited; that he threatened to kill him: That he also abused Mr. Thomas Samson, who came over upon his own accord to serve his Majesty, who by his Testimony gave great satisfaction to both Houses of Parliament.

6. That before a Committee of the House of Commons he refused to give Evidence against Sir John Fitz-Gerald; unless the Committee would promise to intercede to the King for his Pardon: That at the Lords Bar he accused Col. Fitz-Patrick and Sir Edmund Scot, and left their names out in his Narrative.

7. That he commended some of the Witnesses for retaining the Romish Religion, for he said, that the Protestants would make use of them for their own purpose, and hang them afterwards.

8. That he told some of the Witnesses, that the King was satisfied of the Innocency of the Lord Stafford, and that his Majesty was resolved not to Try the Lords in the Tower; and said, that after the Parliament was prorogued, he would remove the Witnesses Nells.

9. That

* Note here, he would make the King author of stifling the Evidence of the Plot, and the discovery of it; which ought not to pass without due reprehension.

Note, this Samson is one of the Witnesses that accuses the Earl of Tyrone.

9. That he kept continual correspondence and familiarity with the four Witnesses that came lately from *Ireland*, contrary to the order of the Committee of the House of Commons; That he reviled and abused a Person of Quality, that reprehended him for so doing; That he abused those four Witnesses, and asked them if they came to hang poor *Plunket*.

10. That he said, he was abused because he would not accuse the Duke of *Ormond*, and the Chancellor of *Ireland*, which he knew to be as honest men as any in the three Kingdoms.

Hereupon an Order was conceived by his Majesty in Council the 4th of *February* instant, that a Copy of the said Articles should be delivered to Mr. *Fitz-Gerald*, to return his Answer in writing, and also that Mr. *Fitz-Gerald* should exhibit his Charge against *Hetherington*; both which Mr. *Fitz-Gerald* performed, the substance of his Answer being briefed in the margin to each Article, as before; and his Articles against Mr. *Hetherington*, with the proof of each Article, is briefly as followeth. Read the Articles at length.

1. That he broke Prison in *Dublin*; that he corresponded with the Outlaws and Tories in the North of *Ireland*; that he was for the same imprisoned at *Dundalk*; that after breaking Prison in *Dublin*, he fled over into *England*; that he pretended to be a Justice of the Peace in *Ireland*, to gain himself reputation here; that he had no money in his purse but 1 s. 6 d. and his Apparel not worth half a Crown; that he procured himself to be stiled, the Manager of the Irish Evidence; that he endeavoured to suborn Witnesses to accuse persons of the highest Quality under the King, of *Treason*.

2. That *Hetherington* got 100 l. of the Kings money, that he kept all to himself, and did not distribute it according to Orders, only 10 l. he gave the four Priests; and that he received monies in *London* for the Irish Witnesses.

Let Mr. *Hetherington* prove what he did with the money, and bring Witnesses viva voce, if he can.

9. He denies this; he refers himself to the four Witnesses; namely *Maurice Fitz-Gerald*, *Mortagh Dawning*, *George Goddan*, and *Paul Gormly*; if he means, by that Person of Quality, Sir *Henry Ingoldby*, he refers himself to the Board as to that.

10. He confesseth, as in his Answer to the second Article, he was solicited to accuse them, and also the Queen, and the Duke of *York*; he knoweth nothing against them; he saith, *Hetherington* abuses him thus because he would not comply with him to accuse the said persons.

Note, that he would make it a crime for a man to declare the honesty of these two Great men.

As to his breaking of Prison, vide his confession to the 5th Interrog. on the Minutes; that he corresponded with the Tories, vide his confession as to the 5th Interrog. that he was upon suspicion of it committed to *Dundalk Gaol*; then call *Ja. Murphy*, *Owen Murphy*, read their Letters or Depositions, or examine them personally upon Oath, that he pretended to be, but was no Justice, vide his confession on the 7th Article; to prove his poverty, call Mr. *Bradly* and Mr. *Roberts*, vide his Answer on the 9th Interrog. Constat, he is so called; ask him who made him a Manager: that he endeavoured to suborn Witnesses against the Queen, the Duke of *York*, &c. call *Hugh Duffy*, *John MacCleve*, *John Moyre*, *George Murphy*.

As to *Hetherington's* life and conversation, shew Serjeant *Osborn's* Certificate, who goes Judge in the North Circuit in *Ireland* sometimes.

To prove he received the 100 l. call Mr. *Squib* an Officer of the Treasury, and shew the Orders and Receipts; that he did not pay the money over as he should, call *John Moyre*, *Edm. Murphy*, *Daniel Fynane*, *James Callahan*, these were to receive part, and did not: to prove the money collected and received in *London*, call Mr. *Roberts* on Oath, &c.

3. That

Let Mr. David Fitz-Gerald have his Oath; let him declare the place at Westminster, the place with the Parliament-man, the place in London before Capt. Morley.

Let John Mac Nemarra's Oath to this point, upon the last and 10th of my Interrogatories, be read; and let Mac Nemarra be asked, if he did not confess it before a Committee of the House of Commons: let Burk also be examined to this; though they both now, to prop up themselves, side with Hetherington: so as I desire to know whether there be good proof without them. Fully proved.

This is proved on the first Article; but if you require it, call Hugh Duffy, John Mac Cleve, John Moyre, George Morphy; all proved by the aforesaid persons.

First, that Hanlan and his Confederates are proclaimed Rebels and Traytors, call the Right Honourable Lord Conway, one of the Council in Ireland.

This appears on the first Article, Hetherington being committed to Dundalk Gaol: and if your Majesty be not satisfied, call James Morphy and Owen Morphy, and let Secretary Jenkins shew James Morphy's Letter. James Morphy proved the same.

Call John Luker, Peter Linch, Michael Rely, and Keho; fully proved.

Let them declare if one Geoghan a Frier did not go hence from England, and had his Majesties Warrant, (which is the same that Mr. Hetherington procured) and that they were harrassed upon this Warrant: that

Now it is easie to make appear, that there was but one blank Warrant obtained, and hereupon these Carrick men were brought over. The Charge proved to the full.

John Power Esq; a Justice of the Peace, was on his relation imprisoned in Waterford; so was Mr. Richard Fitz-Gerald, a great Dealer and Trader; so was Matthew Hore Esq; John Nugent Esq; Mr. Dalton the Minister of Dungarvan, a Justice of Peace, threatened: he hath got a deal of Monies in several places; others he forced from their Houses, &c. let him declare the misery and trouble the Country is put in; and that this Geoghan is now for his great Villany committed in Dublin by the Lord Lieutenant.

3. That he laboured to bring an *ordinum* upon the King; that he declared he brought a Bull or Brief out of Ireland, under the Popes Seal, &c. as in the Article.

4. That the said Hetherington intending to take away the lives of the Queen, and the Duke of York, and to weaken the Kings Interest in Ireland, &c. did endeavour to suborn Witnesses against the Queen, the Duke, Ormond, and the Chancellor of Ireland.

5. To prove his correspondence with Hanlan, and the rest of the Tories in Ireland, and endeavoured to procure them to come in to discover the Plot, (though falsely.)

6. That he hath brought over Witnesses out of Ireland, as he pretended, &c.

ARTI-

ARTICLES of a most high and transcendence nature, presented and exhibited to the King's most Excellent Majesty, and to the Right Honourable the Lords of his Majesties most Honourable Privy-Council, by David Fitz-Gerald, by *William Hetherington*, in obedience to his Majesties Order in Council bearing date the 4th day of February instant.

1. **T**HE said *David Fitz-Gerald*, praying the liberty at any time hereafter, as occasion shall require, to explain the Articles hereafter following, and further to impeach the said *William Hetherington*, doth now most humbly say and propose, That the said *William Hetherington*, having broken Prison in *Dublin*, corresponded with *Haulan*, and the rest of the Outlaws and Tories in the North of *Ireland*, and having defrauded and cheated many of his Majesties good Subjects in that Kingdom, repaired into *England*, and untruly pretended to some of his Majesties good Subjects here, to gain himself reputation and credit in *England*, that he was sometimes a Justice of the Peace in some County in *Ireland*, and had a considerable Estate there, though he had but eighteen pence in his Pocket when he came to *London*, and all his Apparel was not worth half a Crown; procured himself (but by what, or whose means or Authority, this Proponent doth not yet know) to be stiled, *the Manager of the Irish Evidence*, thereby to have the opportunity to relieve his distress, though by the shipwrack of his Conscience, and utter ruine of his Soul; and also by suborning Witnesses to accuse Persons of the highest Quality, next and under his Majesty, of Treason, and to accuse others of the like crime, thereby instead of serving his Majesty, according to the duty of his pretended Office, to disturb his Majesties happy reign over his Subjects, and the peace and tranquillity of his Kingdoms.

2. That the said *Hetherington*, the better to effect his said wicked designs, got into his hands One hundred pounds of his Majesties money, to be distributed amongst the *Irish* Witnesses, who were all needy, and miserably poor, which sum he converted to his own use, but Ten pounds only he distributed amongst four Priests, and others of the Witnesses; and hath also received divers sums collected in the City of *London*, for the *Irish* Witnesses, wherein he hath not justly discharged his Trust.

3. That the said *Hetherington* laboured all ways and means he could, to render his Majesties Royal Person and Government odious, as well to his Subjects of *England*, as of *Ireland*, and to induce them to a belief, that his Majesty is a favourer of Papists and Popery, thereby to stir up the people to Rebellion, both in *England* and *Ireland*; for he the said *Hetherington* did divers times, in open Companies and places in the City of *London*, and elsewhere, publish and declare in the hearing of his Majesties Subjects, that he brought with him out of *Ireland* into *England*, a Bull or Brief under the Seal of the Pope, or Bishop of *Rome*, discharging his Majesties Popish Subjects of *Ireland* from their Natural Allegiance to his Majesty; And that he himself in person, did shew and produce the aforesaid Bull or Brief to his Majesty, and acquainted his Majesty with the tenour thereof; and that his Majesty took no notice of it, but in and towards the favouring and countenancing of Papists, and for the introducing of Popery, did reject the same.

4. That the said *Hetherington*, intending to bring the Queens Majesty, and his Royal Highness the Duke of *Tork*, into the hatred of his Majesty and of all his Subjects, and to deprive them of their Lives, Estates, and Royal Dignities, and also intending to weaken his Majesties Interest in *Ireland*, and draw away the affections of his Subjects there from him, hath by entreaties and other ways of perswasion, endeavoured to suborn Witnesses to swear, that the Queens Majesty, his Royal Highness the Duke of *Tork*, and the Duke of *Ormond*, as also that the Lord Chancellor of *Ireland*, and others his Majesties

loyal and faithful Subjects, were privy to, and principally concerned in the Plot both in *England* and *Ireland*, against his Majesties Person and Government.

5. That the said *Hetherington*, the better to compass the enterprizes aforesaid, and to strengthen his proof against her Sacred Majesty, his Royal Highness the Duke of *Tork*, the Duke of *Ormond*, and others as aforesaid, as also to anticipate the said Duke of *Ormond*, Lord Lieutenant of *Ireland*, his endeavours to reduce *Hanlan*, and the rest of the Tories in the North of *Ireland*, to their due obedience, hath for some time past held, and still doth hold, private correspondence with the said *Hanlan*, and other Outlaws and Tories in the North of *Ireland*, though many of them are guilty of Murthers, and Outlawed or proclaimed Rebels, according to the course of the Laws there: And did by his Letters invite the said *Hanlan* and his Confederates, to give out in speeches, that he and his Confederates were privy to the Plot in *Ireland* against his Majesty, and that he and they could prove that her Majesty, his Royal Highness the Duke of *Tork*, the Duke of *Ormond*, and the Lord Chancellor of *Ireland*, were principally concerned therein, so as such Declaration might be made publick here in *England*: That then if *Hanlan* would but send him the said *Hetherington* a competent sum of money, and would really swear (though falsely) against the Queen, his Highness, and the rest, he would under pretence of such his discovery of the Plot, and giving Evidence as aforesaid, obtain his Majesties Pardon for the said *Hanlan* and his Confederates, for all Treasons, Murthers, Felonies, and all other offences whatsoever; thereby intending no good to his Majesty and People, but confusion and trouble, and to put a piece of *Hanlan's* money into his own Pocket, and to suborn the said Miscreants to swear as he should dictate to them, hoping to better his condition by the ruine of his Majesties good Subjects, that he projected would ensue thereupon.

6. That he pretended to have a great many substantial and credible Witnesses in *Ireland*, to prove the *Irish* Plot, whose Names he could not then remember, as he alledged, and therefore obtained a blank Warrant from his Majesty, to fetch over the said Witnesses into *England*: That under colour thereof, he hath by his Emissaries there caused several Gentlemen, as well Papists as Protestants, and Justices of the Peace in many Counties, Towns, and places in *Ireland*, to be Imprisoned, forced other ignorant men to pay monies for not troubling or molesting them, and at length brought over into *England* (amongst others) six honest persons, Inhabitants of *Carrick* and *Clonmell*, as Witnesses, and on their arrival in *London*, imployed one *Eastace Comyns* to perswade them to swear against their knowledge, in Affirmance and Justification of what *Comyns* had already untruly sworn; And this he did purposely to abuse his Majesties Warrant and Royal Authority, to put his Majesty to great charges, to amuse the Vulgar, to hinder the said persons in their own private concerns, because they would give his Emissaries no monies, to discourage Trade and Dealing in *Ireland*, and to create an universal disquiet, and terrible apprehensions in the hearts and minds of his Majesties Subjects there, of imminent and sudden dangers and calamities, the said *Hetherington* thereby labouring and wickedly designing to bring an odium and scandal upon his Majesty, and his Royal Government.

All which Articles the said *David Fitz-Gerald* is ready to aver and prove, as his Majesty and this most Honourable Board shall award: And humbly prayeth, that the said *Hetherington* may be committed, or so secured, as that he may be compelled to answer the same: For that the said *David Fitz-Gerald* hath good reasons to believe, that the said *Hetherington* will not abide a Hearing in this cause, but will make his Escape with Impunity, to the Encouragement of ill men, and in contempt of his Majesty and this Honourable Board; wherein the said *David Fitz-Gerald* humbly submitteth to his Majesty, and your Lordships great wisdom and direction.

F I N I S.